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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, N.W.
Room TW-B204
Washington, D.C. 20554

Re: Ex Parte Submission In IB Docket Nos. 02-324 & 96-261

Dear Ms. Dortch,

On behalf of Videsh Sanchar Nigam Limited ("VSNL"), we are submitting this brief response to the issues raised in several comments and *ex parte* submissions by various parties in the above-captioned rulemaking proceedings.

In its *Notice of Proposed Rulemaking* (FCC 02-285) released in the above-referenced proceedings on October 11, 2002, the Commission asked parties to comment on whether the Commission's settlement rate benchmark policies should be modified and, if so, what modifications should be adopted. In response, certain U.S. international carriers recommended that the Commission consider adopting rules which, among other things, would reduce the benchmark levels. In an *ex parte* submission to the Commission dated October 22, 2003, AT&T Corporation ("AT&T") proposed that the Commission commence a new rulemaking looking towards significant reductions in settlement benchmark levels. Although AT&T did not propose specific benchmark reductions, AT&T modified the Commission's Tariff Component Pricing ("TCP") methodology and calculated rates under that methodology for twenty countries. One of those countries was India, and AT&T asserted that the modified TCP generated rates of between \$.0163/minute and \$.0185/minute for fixed traffic and between \$.0218/minute and \$.0250/minute for mobile-terminating traffic on the U.S.-India route.

In this letter, VSNL does not express any view on whether the Commission should modify its benchmark policies, or whether it should continue to implement its benchmark policies in any form. Rather, VSNL requests that, in the event the Commission decides to move forward with a further rulemaking proceeding as requested by AT&T, the Commission take into account that the National Regulatory Authorities ("NRAs") in some countries prescribe specific


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per-minute interconnection-related charges that must be paid on U.S.-billed international switched traffic to those countries. In India, in addition to certain termination and domestic carriage charges, the Telecommunications Regulatory Authority of India ("TRAI") has established a per-minute Access Deficit Charge ("ADC") that must be paid to terminate various types of traffic, including international calls, in order to defray certain costs, such as certain universal service costs. The ADC established by TRAI for international calls is 5.0 rupees per minute (4.25 rupees per minute as of February 1, 2004), and VSNL and other international long distance carriers must pay this amount to the terminating local carrier in India for international switched telephone calls. For carriers such as VSNL that terminate international traffic but do not operate incumbent or ubiquitous domestic local telephone networks, the ADC is a real cost (not a mere internal transfer payment) that must be paid out of the settlement or termination revenues they receive from the originating foreign carriers. However, the modifications proposed by AT&T to the TCP methodology do not reflect these types of costs, and the rate calculated by AT&T for the U.S.-India route under this methodology does not reflect the ADC prescribed by the TRAI for U.S.-billed international switched traffic.

In VSNL's view, it is neither economically rational nor sound public policy to establish a benchmark rate that does not permit the terminating foreign carrier, whether in India or other countries, to fully recoup the ADC in addition to its reasonable termination costs. Indeed, such a rate level would not be "cost-oriented" within the meaning of the Reference Paper associated with the World Trade Organization Basic Telecommunications Agreement. Reducing the benchmark rate without fully reflecting ADCs (or similar charges) established by foreign NRAs would harm the interests of consumers in the U.S. and other countries by promoting economically irrational behavior by market participants, including the inefficient use and construction of facilities and routing of traffic, and by creating the possibility of service disruptions. Therefore, should the Commission commence a rulemaking proceeding on this issue, VSNL submits that any proposed benchmark rates should fully take into account the ADCs (or similar charges) that VSNL must pay to the terminating local carrier in India besides the termination and domestic carriage charges stipulated by TRAI.

Please contact the undersigned attorney should you have any questions.

Respectfully submitted,



Robert J. Aamoth
Counsel for VSNL

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